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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 DIEGO M. RODRIQUEZ,

7 Plaintiff,

8 v.

9 MICHAEL J. ASTRUE, Commissioner of  
10 Social Security

11 Defendant.

Case No. C09-5241BHS-KLS

ORDER TO SHOW CAUSE

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13 This matter comes before the Court on plaintiff's filing of motion to proceed *in forma*  
14 *pauperis* (Dkt. #1) and a complaint seeking a writ of *mandamus* to set aside a decision of the  
15 Social Security Administration concerning what appears to have been a recoupment of a  
16 disability benefits overpayment. To file a complaint and initiate legal proceedings, plaintiff must  
17 pay a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*.  
18

19 By requesting the Court to proceed *in forma pauperis*, plaintiff is asking the government  
20 to incur the filing fee because he allegedly is unable to afford the costs necessary to proceed with  
21 his cause of action. Plaintiff has not used the Court's own approved application to proceed *in*  
22 *forma pauperis* form, but rather has filed his own written motion seeking *in forma pauperis*  
23 status. That motion, however, does not include all of the financial and other information the  
24 Court needs before it can determine plaintiff's eligibility therefor. Accordingly, before he can  
25 proceed with this matter, plaintiff must re-file his application to proceed *in forma pauperis* using  
26 that form as directed below.

Order to Show Cause- 1

1 In addition, Local Rule CR 3(b) provides in relevant part:

2 At the time application is made under 28 U.S.C. § 1915 or other applicable  
3 acts of Congress, for leave to commence any civil action or to file any petition or  
4 motion without being required to prepay fees and costs or give security for them,  
5 each petitioner, movant or plaintiff shall:

6 (1) Complete the in forma pauperis affidavit approved for use in this  
7 district; and

8 (2) File a written consent that the recovery, if any, in the action, to such  
9 amount as the court may direct, shall be paid to the clerk who may pay therefrom  
10 all unpaid fees and costs taxed against the plaintiff, and to his attorney the amount  
11 which the court allows or approves as compensation for the attorney's services.

12 Plaintiff, however, has not submitted the written consent required by Local Rule CR 3(b)(2).

13 The Court notes, furthermore, that plaintiff has not provided any copies of the complaint  
14 or service forms for service. Should plaintiff be granted *in forma pauperis* status in this matter,  
15 he will be entitled to service of his complaint on defendant by the United States Marshal. See  
16 Fed. R. Civ. P. 4(c)(3). Plaintiff, however, still has the obligation of providing the Court with the  
17 proper number of copies of the complaint and completed service forms for service prior to such  
18 service being attempted. In this case, a copy of the complaint and summons must be served on  
19 each of the following: United States Attorney for the Western District of Washington in Seattle;  
20 the Attorney General of the United States in Washington, D.C.; and the Commissioner of Social  
21 Security via the Office of General Counsel therefor. See Federal Rule of Civil Procedure ("Fed.  
22 R. Civ. P.") 4(i).

23 Accordingly, the Court hereby finds and ORDERS as follows:


- 24 (1) Plaintiff shall seek to cure this deficiency by filing no later than **May 31, 2009**, (a) a  
25 completed and signed application to proceed *in forma pauperis* using the Court's  
26 own approved application form therefor; and (b) the written consent required by  
Local Rule CR 3(b)(2).

1 (2) Plaintiff also shall submit to the Court **three (3)** copies of the complaint for service,  
2 along with **three (3)** service forms properly addressed to the government parties set  
3 forth above.

4 **Failure to cure these deficiencies by the above date shall be deemed a failure to**  
5 **properly prosecute this matter and the Court will recommend dismissal of this**  
6 **matter.**

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8 (3) The Clerk is directed to send a copy of this Order to plaintiff, along with the proper  
9 application to proceed *in forma pauperis* and written consent forms.

10 DATED this 1st day of May, 2009.

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14 Karen L. Strombom  
15 United States Magistrate Judge  
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